

AMENDED IN ASSEMBLY AUGUST 13, 2012

SENATE BILL

No. 1309

Introduced by Senator Negrete McLeod

February 23, 2012

An act to amend Sections 7296, 7299.2, 7299.4, 7299.5, 7299.6, ~~11435.30~~, 11435.40, 11435.45, 11435.50, 18522, 18524, 18538, 18573, 18576, 18720, 18720.1, 18720.3, 18720.4, 18901, 18901.5, 18902, 18906, 18930, 18930.5, ~~18933~~, 18934, 18935, 18938, 18938.5, 18938.6, 18939, 18990, 18991, 18992, 19050.4, 19050.5, 19052, 19055, 19057.1, 19057.3, 19058, 19063, 19063.1, 19063.4, 19063.8, 19172, 19180, 19232, 19233, 19236, 19237, 19240, 19241, 19242, 19242.2, 19242.8, 19243, 19243.2, 19600, 19600.1, 19602, 19603, 19606, 19609, 19701, 19702.5, 19705, 19790, 19792, 19792.5, 19794, 19795, 19798.5, 19816.4, and 19816.6 of, to add Sections 18501, 18502, and 18521.5 to, to add Article 1.5 (commencing with Section 18660) to Chapter 2 of Part 2 of Division 5 of Title 2 of, ~~and to repeal Sections 19815.2 and 19816.22 of, and to repeal and add Section 19702 of,~~ the Government Code, relating to human resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1309, as amended, Negrete McLeod. Human resources.

The California Constitution establishes the State Personnel Board (board) and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary actions. The Constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Existing law ~~establishes~~ *established* the Department of Personnel Administration for

purposes of managing the nonmerit aspects of the state's personnel system.

Governor's

The Governor's Reorganization Plan No. 1 of 2011, operative July 1, 2012, ~~creates~~ created the Department of Human Resources, which is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the board as its designee with respect to the board's administrative and ministerial functions.

This bill would instead vest the Department of Human Resources with those powers, duties, and authorities necessary to operate the state civil service system in accordance with the California Constitution, statutory law, the merit principle, and applicable rules duly adopted by the board. The bill would transfer certain functions and duties from the responsibility of the board to the Department of Human Resources. The bill would make related changes.

The plan also ~~abolishes~~ *abolished* the Department of Personnel Administration, and ~~transfers~~ *transferred* the functions and duties performed by the Department of Personnel Administration to the Department of Human Resources. The plan ~~eliminates~~ *eliminated* certain functions of the board relating to investigating and hearing complaints of discrimination in the civil service. The plan also authorizes the Department of Human Resources to establish disciplinary criteria applicable to adverse actions taken by appointing bodies pursuant to causes of discipline for employees and individuals established pursuant to specified provisions of law. The plan requires the board to give consideration and respect to any applicable disciplinary criteria established by the Department of Human Resources in making certain decisions relating to disciplinary proceedings.

This bill would also specify that the rules and regulations of the board and of the Department of Personnel Administration would remain in effect unless amended or repealed by the board or the Department of Human Resources.

The bill would authorize the board to perform audits on the personnel practices of any appointing authority, as defined, to ensure compliance with the civil service laws and board regulations.

The bill would also prohibit a person from being discriminated against in the terms, conditions, and privileges of his or her employment with the state based on his or her medical condition, mental disability, or physical disability, as defined, and would require the board, upon a

finding that discrimination has occurred, to order the appointing authority to cause the discrimination to cease and desist, as specified.

Existing law authorizes the Department of Personnel Administration to assess special funds, bond funds, and nongovernmental cost funds in sufficient amounts to support the cost of the Human Resources Modernization Project, as specified.

This bill would also repeal that provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7296 of the Government Code is amended
2 to read:

3 7296. (a) As used in this chapter, a “qualified bilingual
4 person,” “qualified bilingual employee,” or “qualified interpreter”
5 is a person who is proficient in both the English language and the
6 non-English language to be used. For any state agency, “qualified”
7 means one of the following:

8 (1) A bilingual person or employee who the Department of
9 Human Resources has tested and certified as proficient in the ability
10 to understand and convey in English and a non-English language
11 commonly used terms and ideas, including terms and ideas
12 regularly used in state government.

13 (2) A bilingual employee who was tested and certified by a state
14 agency or other approved testing authority as proficient in the
15 ability to understand and convey in English and a non-English
16 language commonly used terms and ideas, including terms and
17 ideas regularly used in state government.

18 (3) An interpreter who has met the testing or certification
19 standards for outside or contract interpreters, as proficient in the
20 ability to communicate commonly used terms and ideas between
21 the English language and the non-English language to be used and
22 has knowledge of basic interpreter practices, including, but not
23 limited to, confidentiality, neutrality, accuracy, completeness, and
24 transparency.

25 (b) The determination of what constitutes “qualified” for local
26 agencies, shall be left to the discretion of the local agency.

27 SEC. 2. Section 7299.2 of the Government Code is amended
28 to read:

1 7299.2. The Department of Human Resources shall be
2 responsible for informing state agencies of their responsibilities
3 under this chapter and providing state agencies with technical
4 assistance, upon request on a reimbursable basis.

5 SEC. 3. Section 7299.4 of the Government Code is amended
6 to read:

7 7299.4. (a) Notwithstanding any other provision in this chapter,
8 each state agency shall conduct an assessment and develop and
9 update an implementation plan that complies with the requirements
10 of this chapter.

11 (b) Each agency shall conduct a survey of each of its local
12 offices every two years to determine all of the following:

13 (1) The number of public contact positions in each local office.

14 (2) The number of qualified bilingual employees in public
15 contact positions in each local office, and the languages they speak,
16 other than English.

17 (3) The number and percentage of non-English-speaking people
18 served by each local office, broken down by native language.

19 (4) The number of anticipated vacancies in public contact
20 positions.

21 (5) Whether the use of other available options, including
22 contracted telephone-based interpretation services, in addition to
23 qualified bilingual persons in public contact positions, is serving
24 the language needs of the people served by the agency.

25 (6) A list of all written materials that are required to be translated
26 or otherwise made accessible to non- or limited-English-speaking
27 individuals by Sections 7295.2 and 7295.4.

28 (7) A list of materials identified in paragraph (6) that have been
29 translated and languages into which they have been translated.

30 (8) The number of additional qualified bilingual public contact
31 staff, if any, needed at each local office to comply with this chapter.

32 (9) Any other relevant information requested by the Department
33 of Human Resources.

34 (c) Each agency shall calculate the percentage of
35 non-English-speaking people served by each local office by
36 rounding the percentage arrived at to the nearest whole percentage
37 point.

38 The survey results and any additional information requested
39 shall be reported in the form and at the time required by the
40 Department of Human Resources, and delivered to the department

1 not later than October 1 of every even-numbered year beginning
2 with 2008.

3 (d) Beginning in 2009 and in every odd-numbered year
4 thereafter, each state agency shall develop an implementation plan
5 that, at a minimum, addresses all of the following:

6 (1) The name, position, and contact information of the employee
7 designated by the agency to be responsible for overseeing
8 implementation of the plan.

9 (2) A description of the agency's procedures for identifying
10 written materials that need to be translated.

11 (3) A description of the agency's procedures for identifying
12 language needs at local offices and assigning qualified bilingual
13 staff.

14 (4) A description of how the agency recruits qualified bilingual
15 staff.

16 (5) A description of any training the agency provides to its staff
17 on the provision of services to non- or limited-English-speaking
18 individuals.

19 (6) A detailed description of how the agency plans to address
20 any deficiencies in meeting the requirements of this chapter,
21 including, but not limited to, the failure to translate written
22 materials or employ sufficient numbers of qualified bilingual
23 employees in public contact positions at local offices, the proposed
24 actions to be taken to address the deficiencies, and the proposed
25 dates by when the deficiencies can be remedied.

26 (7) A description of the agency's procedures for accepting and
27 resolving complaints of an alleged violation of this chapter.

28 (8) A description of how the agency complies with any federal
29 or other state laws that require the provision of linguistically
30 accessible services to the public.

31 (9) Any other relevant information requested by the Department
32 of Human Resources.

33 (e) In developing its implementation plan in 2003, each state
34 agency may rely upon data gathered from its 2002 survey.

35 (f) Each state agency shall submit its implementation plan to
36 the Department of Human Resources no later than October 1 of
37 each applicable year. The department shall review each plan, and,
38 if it determines that the plan fails to address the identified
39 deficiencies, shall order the agency to supplement or make changes
40 to its plan. A state agency that has been determined to be deficient

1 shall report to the Department of Human Resources every six
2 months on its progress in addressing the identified deficiencies.

3 (g) If the Department of Human Resources determines that a
4 state agency has not made reasonable progress toward complying
5 with this chapter, the department may issue orders that it deems
6 appropriate to effectuate the purposes of this chapter.

7 SEC. 4. Section 7299.5 of the Government Code is amended
8 to read:

9 7299.5. The Department of Human Resources may exempt
10 state agencies from the requirements of Section 7299.4, where it
11 determines that any of the following conditions apply:

12 (a) The agency's primary mission does not include responsibility
13 for furnishing information or rendering services to the public.

14 (b) The agency has consistently received such limited public
15 contact with the non-English-speaking public that it has not been
16 required to employ bilingual staff under Section 7292 and the
17 agency employs fewer than the equivalent of 25 full-time
18 employees in public contact positions.

19 In order to receive an exemption, each state agency shall petition
20 the Department of Human Resources for the exemption and receive
21 approval in writing by the date established by the department. An
22 agency may receive an exemption for up to five years, if it
23 demonstrates that it meets the requirements of subdivision (a) or
24 (b), and provides all required documentation to the Department of
25 Human Resources.

26 SEC. 5. Section 7299.6 of the Government Code is amended
27 to read:

28 7299.6. The Department of Human Resources shall review the
29 results of the surveys and implementation plans required to be
30 made by Section 7299.4, compile this data, and provide a report
31 to the Legislature every two years. The report shall identify
32 significant problems or deficiencies and propose solutions where
33 warranted.

34 ~~SEC. 6. Section 11435.30 of the Government Code is amended~~
35 ~~to read:~~

36 ~~11435.30. (a) The Department of Human Resources shall~~
37 ~~establish, maintain, administer, and publish annually an updated~~
38 ~~list of certified administrative hearing interpreters it has determined~~
39 ~~meet the minimum standards in interpreting skills and linguistic~~
40 ~~abilities in languages designated pursuant to Section 11435.40.~~

1 ~~Any interpreter so listed may be examined by each employing~~
2 ~~agency to determine the interpreter's knowledge of the employing~~
3 ~~agency's technical program terminology and procedures.~~

4 ~~(b) Court interpreters certified pursuant to Section 68562, and~~
5 ~~interpreters listed on the Department of Human Resources'~~
6 ~~recommended lists of court and administrative hearing interpreters~~
7 ~~prior to July 1, 1993, shall be deemed certified for purposes of this~~
8 ~~section.~~

9 ~~SEC. 7.~~

10 *SEC. 6.* Section 11435.40 of the Government Code is amended
11 to read:

12 11435.40. (a) The Department of Human Resources shall
13 designate the languages for which certification shall be established
14 under Sections 11435.30 and 11435.35. The languages designated
15 shall include, but not be limited to, Spanish, Tagalog, Arabic,
16 Cantonese, Japanese, Korean, Portuguese, and Vietnamese until
17 the Department of Human Resources finds that there is an
18 insufficient need for interpreting assistance in these languages.

19 (b) The language designations shall be based on the following:

20 (1) The language needs of non-English-speaking persons
21 appearing before the administrative agencies, as determined by
22 consultation with the agencies.

23 (2) The cost of developing a language examination.

24 (3) The availability of experts needed to develop a language
25 examination.

26 (4) Other information the department deems relevant.

27 ~~SEC. 8.~~

28 *SEC. 7.* Section 11435.45 of the Government Code is amended
29 to read:

30 11435.45. (a) The Department of Human Resources shall
31 establish and charge fees for applications to take interpreter
32 examinations and for renewal of certifications. The purpose of
33 these fees is to cover the annual projected costs of carrying out
34 this article. The fees may be adjusted each fiscal year by a percent
35 that is equal to or less than the percent change in the California
36 Necessities Index prepared by the Commission on State Finance.

37 (b) Each certified administrative hearing interpreter and each
38 certified medical examination interpreter shall pay a fee, due on
39 July 1 of each year, for the renewal of the certification. Court

1 interpreters certified under Section 68562 shall not pay any fees
2 required by this section.

3 (c) If the amount of money collected in fees is not sufficient to
4 cover the costs of carrying out this article, the department shall
5 charge and be reimbursed a pro rata share of the additional costs
6 by the state agencies that conduct administrative hearings.

7 ~~SEC. 9.~~

8 *SEC. 8.* Section 11435.50 of the Government Code is amended
9 to read:

10 11435.50. The Department of Human Resources may remove
11 the name of a person from the list of certified interpreters if any
12 of the following conditions occurs:

13 (a) The person is deceased.

14 (b) The person notifies the department that the person is
15 unavailable for work.

16 (c) The person does not submit a renewal fee as required by
17 Section 11435.45.

18 ~~SEC. 10.~~

19 *SEC. 9.* Section 18501 is added to the Government Code, to
20 read:

21 18501. This part and Part 2.6 shall be known as the State Civil
22 Service Act.

23 ~~SEC. 11.~~

24 *SEC. 10.* Section 18502 is added to the Government Code, to
25 read:

26 18502. (a) There is hereby created in state government the
27 Department of Human Resources. The department succeeds to and
28 is vested with the following:

29 (1) All of the powers and duties exercised and performed by
30 the Department of Personnel Administration.

31 (2) Those powers, duties, and authorities necessary to operate
32 the state civil service system in accordance with Article VII of the
33 California Constitution, this code, the merit principle, and
34 applicable rules duly adopted by the State Personnel Board.

35 (b) The State Personnel Board shall prescribe rules consistent
36 with a merit based civil service system to govern classification,
37 examinations, probationary periods, and disciplinary actions. The
38 State Personnel Board may conduct audits and investigations of
39 personnel practices of the department and appointing authorities

1 to ensure compliance with civil service policies, procedures, and
2 statutes.

3 (c) Nothing in this section limits the authority of the Department
4 of Human Resources and the State Personnel Board to delegate,
5 share, or transfer between them responsibilities for programs within
6 their respective jurisdictions pursuant to an agreement.

7 (d) The rules and regulations of the State Personnel Board and
8 of the Department of Personnel Administration shall remain in
9 effect unless and until contradicted by the terms of this chapter or
10 amended or repealed by the board or the Department of Human
11 Resources.

12 ~~SEC. 12.~~

13 *SEC. 11.* Section 18521.5 is added to the Government Code,
14 to read:

15 18521.5. “Department” means the Department of Human
16 Resources.

17 ~~SEC. 13.~~

18 *SEC. 12.* Section 18522 of the Government Code is amended
19 to read:

20 18522. “Position” means any office or employment in the “state
21 civil service” as the phrase is defined in Section 1 of Article VII
22 of the Constitution.

23 “Former position” means either of the following:

24 (a) A position in the classification to which an employee was
25 last appointed as a probationer, permanent employee, or career
26 executive, under the same appointing power where that position
27 was held, and within a designated geographical, organizational,
28 or functional subdivision of that state agency.

29 (b) With the concurrence of both the appointing power and the
30 employee, a position in a different classification to which the same
31 appointing power could have assigned such an employee in
32 accordance with this part. However, the former position shall not
33 include positions from which the employee has been separated
34 through disciplinary action, rejected during a probationary period,
35 terminated under Section 19889.3, or terminated, demoted, or
36 transferred in accordance with Section 19253.5; or terminated on
37 a nonpunitive basis under Section 19585.

38 ~~SEC. 14.~~

39 *SEC. 13.* Section 18524 of the Government Code is amended
40 to read:

1 18524. “Appointing authority” or “appointing power” means
2 a person or group having authority to make appointments to
3 positions in the state civil service.

4 ~~SEC. 15.~~

5 *SEC. 14.* Section 18538 of the Government Code is amended
6 to read:

7 18538. “Part” means this part, Part 2.5 (commencing with
8 Section 19800), and Part 2.6 (commencing with Section 19815)
9 and those portions of Part 1 (commencing with Section 18000)
10 that confer powers or impose duties on the board or the department.

11 ~~SEC. 16.~~

12 *SEC. 15.* Section 18573 of the Government Code is amended
13 to read:

14 18573. Each appointing power shall provide access to records
15 and prepare reports as required by the board or the department.

16 Information given to the board and the department by any person
17 shall not be open to public inspection except under conditions
18 prescribed by board rule, except that a person may inspect any
19 record relating to his or her own services.

20 ~~SEC. 17.~~

21 *SEC. 16.* Section 18576 of the Government Code is amended
22 to read:

23 18576. Judicial notice shall be taken of board and department
24 rules, regulations, and amendments.

25 ~~SEC. 18.~~

26 *SEC. 17.* Article 1.5 (commencing with Section 18660) is added
27 to Chapter 2 of Part 2 of Division 5 of Title 2 of the Government
28 Code, to read:

29
30 Article 1.5. Policy and Audit
31

32 18660. Pursuant to Section 3 of Article VII of the California
33 Constitution, the board shall establish rules implementing and
34 enforcing the merit principle in the state civil service system.

35 18661. (a) The board may conduct an audit of any appointing
36 authority’s personnel practices to ensure compliance with the civil
37 service laws and board regulations. The board may audit selection
38 and examination procedures, appointments, promotions, the
39 management of probationary periods, personal services contracts,

1 discipline and adverse actions, or any other area related to the
2 operation of merit principle in state civil service.

3 (b) When conducting an audit, the board may inspect documents,
4 policies, practices, and procedures of the appointing authority
5 relating to its personnel practices and interview appointing
6 authority staff and witnesses regarding the subject of the audit.
7 Failure by an appointing authority to cooperate with an audit may
8 result in corrective action.

9 (c) Upon completion of the audit, the board may provide a report
10 to the appointing authority and the department, identifying any
11 deficiencies in the appointing authority's personnel practices,
12 policies, and procedures.

13 (d) If the board finds an appointing authority deficient in
14 personnel practices, policies, and procedures, the appointing
15 authority shall be subject to corrective action. The board may order
16 any or all of the following remedies:

17 (1) Revocation or modification of the terms of the delegation
18 agreement between the appointing authority and the department.

19 (2) That the appointing authority compensate the department
20 for the actual and necessary cost of any and all of the personnel
21 functions the department performs and training and supervision
22 the department provides on behalf of the appointing authority,
23 either permanently or for a specified term.

24 (3) Void examinations administered by the appointing authority,
25 abolish eligibility lists, and void appointments made therefrom.

26 (4) Seek approval from the Department of Finance for
27 redirection to the department of a sufficient number of the
28 appointing authority's positions to perform all personnel related
29 functions formerly performed by the appointing authority.

30 18662. The board shall recover from an audited department
31 the entire cost of any audit or investigation conducted under this
32 article.

33 ~~SEC. 19.~~

34 *SEC. 18.* Section 18720 of the Government Code is amended
35 to read:

36 18720. The employment procedures of the department and of
37 each state agency shall conform to the federal and state laws
38 governing employment practices, including the use of employment
39 forms. The department and the Department of Fair Employment
40 and Housing shall work cooperatively to develop uniform

1 employment forms where possible pursuant to the provisions of
2 this article and shall coordinate their enforcement of this article.

3 ~~SEC. 20.~~

4 *SEC. 19.* Section 18720.1 of the Government Code is amended
5 to read:

6 18720.1. The department shall be responsible for the collection
7 and review of all employment forms used by state agencies for
8 civil service employment and for the development of standard
9 employment forms for general use by all state agencies. The
10 department may designate an appointing power to review
11 employment forms in accordance with Section 18654 and board
12 rules. Each state agency shall use the standard forms. However,
13 the department, or an appointing power designated by the
14 department, may approve the use of a nonstandard form by a state
15 agency if the information requested on the form is job-related and
16 the forms and procedures to be used conform with federal and state
17 law governing employment practices. Copies of nonstandard forms
18 approved by a designated appointing power shall be transmitted
19 to the department. Nonstandard forms proposed by a state agency
20 shall be accompanied by a petition submitted by the agency which
21 specifies the reasons why a nonstandard form is necessary to meet
22 the agency's needs.

23 ~~SEC. 21.~~

24 *SEC. 20.* Section 18720.3 of the Government Code is amended
25 to read:

26 18720.3. Each state agency is responsible for ensuring that the
27 employment application forms, and occupational licensing and
28 registration forms, used by the agency conform to federal and state
29 laws governing registration and employment practices. An agency
30 shall not use a form which is not approved by either the department
31 or by the Department of Fair Employment and Housing.

32 ~~SEC. 22.~~

33 *SEC. 21.* Section 18720.4 of the Government Code is amended
34 to read:

35 18720.4. State agencies shall exhaust existing supplies of forms
36 which conform with federal and state law before using any new
37 form approved by the department or the Department of Fair
38 Employment and Housing pursuant to this article.

~~SEC. 23.~~

SEC. 22. Section 18901 of the Government Code is amended to read:

18901. (a) The department may remove all names from open and promotional eligible lists after they have remained thereon for more than one year from the date of the adoption of the lists that created their eligibility, and shall remove all names from lists of eligibles not later than four years after the adoption of the lists that created their eligibility.

Whenever an open or a promotional eligible list has fewer than three names of persons who are willing to accept employment, all names on the list may be removed even though one year has not elapsed from the date of the adoption of the list.

(b) When a list of eligibles becomes exhausted for temporary or permanent employment before the legal expiration of the list, and a new list of eligibles for the same class is created by examination to supply the demands of the service, such new list shall become a part of the list of eligibles to be certified to the positions covered by the list. Those holding places on the prior list shall be given preference for appointment until such time as the prior list may automatically expire or all names are removed therefrom by action of the department. When the prior list has expired by reason of limitation of time, or the names have been removed therefrom by order of the department, then certification shall be made solely from the latter list.

(c) The department or a designated appointing power shall include in the announcement of any examination that the list of eligibles secured thereby will expire not less than one but less than four years after the adoption of such list.

(d) The department or a designated appointing power may make changes in its records to correct clerical errors both before and after the announcement of an eligible list; provided, that any changes of rank, or addition or subtraction of names, made on lists of eligibles because of clerical errors or reratings, shall not change the date of the adoption of such lists, nor give to any persons the right to claim beginning date of eligibility other than the date of the adoption of the original eligible list that created their eligibility.

~~SEC. 24.~~

SEC. 23. Section 18901.5 of the Government Code is amended to read:

18901.5. Notwithstanding subdivision (a) of Section 18901, the department may authorize the retention of eligibles on an employment list for an indefinite period of time based on the following factors:

(a) The number of names remaining on the list in relation to the anticipated number of vacancies.

(b) The qualifications of the eligibles.

(c) The gender, ethnic, and disability composition of the eligibles remaining on the list.

(d) The lack of unreasonable denial of a competitive opportunity for potential applicants.

(e) The availability of alternative appointment options.

(f) The modifications that have been made in the duties, responsibilities, and qualifications in the class specifications since the establishment of the eligible list.

~~SEC. 25.~~

SEC. 24. Section 18902 of the Government Code is amended to read:

18902. The department may divide the state into districts and departments and establish district eligible lists and departmental eligible lists therefor. A person on an eligible list or a departmental eligible list may be included in any other eligible or departmental eligible list on which he or she indicates a desire to be placed, when in the judgment of the department the best interests of the state are served thereby.

~~SEC. 26.~~

SEC. 25. Section 18906 of the Government Code is amended to read:

18906. Any name, after a period of five consecutive years, shall be removed from the reemployment lists for the class unless the period is extended by action of the department.

~~SEC. 27.~~

SEC. 26. Section 18930 of the Government Code is amended to read:

18930. Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors actually to perform the duties of the class of position for which they seek appointment.

1 Examinations for managerial positions, except for career
2 executive assignments as defined in Section 18547, peace officers
3 defined in subdivision (a) of Section 830.2 of the Penal Code, and
4 managerial positions of the Department of Forestry and Fire
5 Protection in the classes of State Forest Ranger IV and Assistant
6 Deputy State Forester, shall be held on an open basis unless the
7 appointing authority determines otherwise. "Managerial position"
8 means those positions having the duties which are defined under
9 "managerial employees" in subdivision (e) of Section 3513. When
10 an open examination is administered for a noncareer executive
11 assignment managerial position, the names of the applicants who
12 pass the examination with a passing score shall be placed on one
13 list and ranked in the relative order of the examination score
14 received.

15 Examinations may be assembled or unassembled, written or oral,
16 or in the form of a demonstration of skill, or any combination of
17 these; and any investigation of character, personality, education,
18 and experience and any tests of intelligence, capacity, technical
19 knowledge, manual skill, or physical fitness which the department
20 deems are appropriate, may be employed.

21 ~~SEC. 28.~~

22 *SEC. 27.* Section 18930.5 of the Government Code is amended
23 to read:

24 18930.5. The department may designate an appointing power
25 to design, announce, or administer examinations for the
26 establishment of employment lists in accordance with Section
27 18654 and board rule. No later than January 1, 1987, the board
28 shall authorize or assess the ability of appointing powers to design,
29 announce, or administer designated examinations for the
30 establishment of employment lists. The board may audit
31 examinations and order corrective action or nullify any examination
32 or parts thereof which have been conducted improperly.

33 A designated appointing power may contract with the department
34 or another designated appointing power for the purpose of
35 designing, publicizing, or administering an examination.

36 ~~SEC. 29.~~ ~~Section 18933 of the Government Code is amended~~
37 ~~to read:~~

38 ~~18933.~~ ~~Within a reasonable time before the scheduled date,~~
39 ~~the department or a designated appointing power shall announce~~

1 ~~or advertise examinations for the establishment of eligible lists.~~

2 ~~The announcement shall include:~~

3 ~~(a) The date and place of the examination.~~

4 ~~(b) The nature of the minimum qualifications.~~

5 ~~(c) The general scope of the examination.~~

6 ~~(d) The relative weight of its several parts if more than one type~~

7 ~~of test is to be utilized.~~

8 ~~SEC. 30.~~

9 *SEC. 28.* Section 18934 of the Government Code is amended
10 to read:

11 18934. Every applicant for examination shall file a formal
12 signed application in the office of the department or a designated
13 appointing power within a reasonable length of time before the
14 date of examination. Blank application forms shall be furnished
15 without charge to all persons requesting them. Such applications
16 when filed and all other examination materials, including
17 examination questions and booklets, are the property of the
18 department and are confidential records open to inspection only
19 if and as provided by rule.

20 The application form shall include a place for listing volunteer
21 experience and such experience shall be considered if it is relevant
22 to the position being applied for. Each form shall have prominently
23 displayed on its face the fact that volunteer experience will be
24 given consideration as qualifying experience for state employment.

25 ~~SEC. 31.~~

26 *SEC. 29.* Section 18935 of the Government Code is amended
27 to read:

28 18935. The department may refuse to examine or, after
29 examination, may refuse to declare as eligible or may withhold or
30 withdraw from certification, prior to appointment, anyone who
31 comes under any of the following categories:

32 (a) Lacks any of the requirements established by the board for
33 the examination or position for which he or she applies.

34 (b) At the time of examination has permanent status in a position
35 of equal or higher class than the examination or position for which
36 he or she applies.

37 (c) Is physically or mentally so disabled as to be rendered unfit
38 to perform the duties of the position to which he or she seeks
39 appointment.

40 (d) Is addicted to the use of intoxicating beverages to excess.

1 (e) Is addicted to the use of controlled substances.

2 (f) Has been convicted of a felony, or convicted of a
3 misdemeanor involving moral turpitude.

4 (g) Has been guilty of infamous or notoriously disgraceful
5 conduct.

6 (h) Has been dismissed from any position for any cause which
7 would be a cause for dismissal from the state service.

8 (i) Has resigned from any position not in good standing or in
9 order to avoid dismissal.

10 (j) Has intentionally attempted to practice any deception or fraud
11 in his or her application, in his or her examination, or in securing
12 his or her eligibility.

13 (k) Has waived appointment three times after certification from
14 the same employment list.

15 (l) Has failed to reply within a reasonable time to
16 communications concerning his or her availability for employment.

17 (m) Has made himself or herself unavailable for employment
18 by requesting that his or her name be withheld from certification.

19 (n) Is, in accordance with rule, found to be unsuited or not
20 qualified for employment.

21 (o) Has engaged in unlawful reprisal or retaliation in violation
22 of Article 3 (commencing with Section 8547) of Chapter 6.5 of
23 Division 1, as determined by the board or the court.

24 ~~SEC. 32.~~

25 *SEC. 30.* Section 18938 of the Government Code is amended
26 to read:

27 18938. The department or a designated appointing power may
28 issue certificates of competence to candidates who are successful
29 in certain phases of examinations involving a particular knowledge,
30 ability, or skill. For the period named in such a certificate, the
31 department or a designated appointing power may accept it as
32 evidence of the candidate's competence in lieu of participation in
33 that phase of an examination.

34 ~~SEC. 33.~~

35 *SEC. 31.* Section 18938.5 of the Government Code is amended
36 to read:

37 18938.5. When the employment list resulting from examination
38 has been established, each competitor shall be notified in writing
39 of the results of the examination. For competitors unsuccessful in
40 an oral examination, the department or a designated appointing

1 power shall, upon the written request of the competitor, specify
2 the reasons why such person was unsuccessful.

3 ~~SEC. 34.~~

4 *SEC. 32.* Section 18938.6 of the Government Code is amended
5 to read:

6 18938.6. The department shall provide for the inspection of
7 examination papers for all written test competitors.

8 ~~SEC. 35.~~

9 *SEC. 33.* Section 18939 of the Government Code is amended
10 to read:

11 18939. For classes of positions for which the department or a
12 designated appointing power finds it difficult to maintain adequate
13 eligible lists it may receive applications, conduct examinations,
14 and create eligible lists continuously. The names of eligibles who
15 took the same or a comparable examination on different dates may
16 be ranked for purposes of certification in the order of final earned
17 ratings, except as the order may be modified by the application of
18 veterans preferences or career credits, consistent with applicable
19 statutes. Eligibility from a continuous examination may be deemed
20 to be established as of the date of examination.

21 ~~SEC. 36.~~

22 *SEC. 34.* Section 18990 of the Government Code, as added by
23 Section 4 of Chapter 353 of the Statutes of 2008, is amended to
24 read:

25 18990. (a) Notwithstanding any other provision of law or rule,
26 persons employed by the Legislature for two or more consecutive
27 years shall be eligible to apply for promotional civil service
28 examinations, including examinations for career executive
29 assignments, for which they meet the minimum qualifications as
30 prescribed by the class specification. Persons receiving passing
31 scores shall have their names placed on promotional lists resulting
32 from these examinations or otherwise gain eligibility for
33 appointment. In evaluating minimum qualifications, related
34 legislative experience shall be considered state civil service
35 experience in a comparable class, based on the duties and
36 responsibilities assigned.

37 (b) In cases where promotional examinations are given by more
38 than one department for the same classification, the employee shall
39 select one department in which to compete. Once this selection is
40 made, it cannot be changed for the duration of the promotional list

1 established from the examination in which the employee
2 participated. Employees may transfer list eligibility between
3 departments in the same manner as provided for civil service
4 employees.

5 (c) Employees who meet the requirements of this section, are
6 employed by the Legislature, and who resign or are released from
7 service, shall be eligible to take promotional civil service
8 examinations, including examinations for career executive
9 assignments, for one year following their resignation or release in
10 accordance with subdivisions (a) and (b).

11 (d) Employees who meet the requirements of this section, are
12 employed by the office of the Auditor General or the office of the
13 Legislative Analyst as of January 1, 1992, and who resign or are
14 released from service due to a force reduction of the Legislature
15 before January 1, 1994, shall be eligible to take promotional civil
16 service examinations, including career executive assignments, for
17 three years following their resignation or release in accordance
18 with subdivisions (a) and (b).

19 (e) An employee who establishes eligibility on a promotional
20 civil service list, either pursuant to subdivision (c) or (d) or prior
21 to having resigned or having been released in a manner to which
22 subdivision (c) or (d) would apply, shall maintain that eligibility
23 for the duration of that particular list.

24 (f) This section shall become operative on January 1, 2013.

25 ~~SEC. 37.~~

26 *SEC. 35.* Section 18991 of the Government Code is amended
27 to read:

28 18991. (a) Notwithstanding any other provision of law, persons
29 retired from the United States military, honorably discharged from
30 active military duty with a service-connected disability, or
31 honorably discharged from active duty, shall be eligible to apply
32 for promotional civil service examinations, including examinations
33 for career executive assignments, for which they meet the minimum
34 qualifications as prescribed by the class specification. Persons
35 receiving passing scores shall have their names placed on
36 promotional lists resulting from these examinations or otherwise
37 gain eligibility for appointment. In evaluating minimum
38 qualifications, related military experience shall be considered state
39 civil service experience in a comparable class, based on the duties
40 and responsibilities assigned.

(b) In cases where promotional examinations are given by more than one department for the same classification, the employee shall select one department in which to compete. Once this selection is made, it cannot be changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

~~SEC. 38.~~

SEC. 36. Section 18992 of the Government Code, as added by Section 6 of Chapter 353 of the Statutes of 2008, is amended to read:

18992. (a) Notwithstanding any other provision of law or rule, persons holding, for two or more consecutive years, nonelected exempt positions in the executive branch of government as defined in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article VII of the Constitution and excluding those positions for which the salaries are set by statute, shall be eligible to apply for promotional civil service examinations, including, but not limited to, examinations for career executive assignments for which they meet the minimum qualifications as prescribed by the class specification. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related exempt experience shall be considered state civil service experience in a comparable class.

(b) In cases where promotional examinations are given by more than one appointing authority for the same classification, the employee shall select one appointing authority in which to compete. Once this selection is made, it cannot be changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between appointing authorities in the same manner as provided for civil service employees.

(c) Employees who meet the requirements of this section and who resign or are released from exempt employment of the executive branch of government shall be eligible to take promotional civil service examinations, including examinations

1 for career executive assignments, for one year following their
2 resignation or release in accordance with subdivisions (a) and (b).

3 (d) An employee who establishes eligibility on a promotional
4 civil service list, either pursuant to subdivision (c) or prior to
5 having resigned or having been released in a manner to which
6 subdivision (c) would apply, shall maintain that eligibility for the
7 duration of that particular list.

8 (e) This section shall become operative on January 1, 2013.

9 ~~SEC. 39.~~

10 *SEC. 37.* Section 19050.4 of the Government Code is amended
11 to read:

12 19050.4. A transfer may be accomplished without examination
13 pursuant to board rule. The department or appointing authority
14 may require an employee to demonstrate in an examination that
15 he or she possesses any additional or different requirements that
16 are included in the minimum qualifications of the class to which
17 the employee is transferring.

18 ~~SEC. 40.~~

19 *SEC. 38.* Section 19050.5 of the Government Code is amended
20 to read:

21 19050.5. Notwithstanding Section 3517.6, an appointing power
22 may transfer any employee under his or her jurisdiction to a
23 position in the same class or to another position in a different class
24 pursuant to board rule.

25 ~~SEC. 41.~~

26 *SEC. 39.* Section 19052 of the Government Code is amended
27 to read:

28 19052. Whenever a vacancy in any position is to be filled and
29 not by transfer, demotion, or reinstatement, the appointing power
30 shall submit to the department, in accordance with board rules, a
31 statement of the duties of the position, the necessary and desired
32 qualifications of the person to be appointed, and a request that the
33 names of persons eligible for appointment to the position be
34 certified. When the appointing power establishes to the satisfaction
35 of the department that the necessary qualifications for the vacant
36 position include fluency in a language in addition to English only
37 the names of persons possessing such fluency shall be certified.

38 ~~SEC. 42.~~

39 *SEC. 40.* Section 19055 of the Government Code is amended
40 to read:

1 19055. The department may, consistent with board rules,
2 provide for certification of names from appropriate employment
3 lists of the same or higher level in the event an employment list is
4 not available for the class to which a position belongs.

5 ~~SEC. 43.~~

6 *SEC. 41.* Section 19057.1 of the Government Code is amended
7 to read:

8 19057.1. Notwithstanding Section 19057, for positions in
9 classes designated by the board as professional, scientific, or
10 administrative, or for any open employment list, there shall be
11 certified to the appointing power the names and addresses of all
12 those eligibles whose scores, at time of certification, represent the
13 three highest ranks on the employment list for the class, and who
14 have indicated their willingness to accept appointment under the
15 conditions of employment specified.

16 For purposes of ranking, scores of eligibles on employment lists
17 for these classes shall be rounded to the nearest whole percent. A
18 rank shall consist of one or more eligibles with the same whole
19 percentage score.

20 If the names on the list from which certification is being made
21 represent fewer than three ranks, then additional eligibles shall be
22 certified from the various lists next lower in order of preference
23 until names from three ranks appear. If there are fewer than three
24 names available for certification, and the appointing authority does
25 not choose to appoint from among these, the appointing authority
26 may demand certification of three names. In that case, examinations
27 shall be conducted until at least three names may be certified by
28 the procedure described in this section, and the appointing authority
29 shall fill the position by appointment of one of the persons certified.

30 Fractional examination scores shall be provided to, and utilized
31 by, the *Department of the California Highway Patrol* for its peace
32 officer classes.

33 The department may, consistent with board rules, provide for
34 certifying less than three ranks where the size of the certified group
35 is disproportionate to the number of vacancies.

36 ~~SEC. 44.~~

37 *SEC. 42.* Section 19057.3 of the Government Code is amended
38 to read:

39 19057.3. (a) Notwithstanding Section 19057, for a position in
40 the Department of Corrections and Rehabilitation, there shall be

1 certified to the appointing power the names and addresses of all
2 those eligibles for peace officer and closely allied classes whose
3 scores, at the time of certification, represent the three highest ranks
4 on the employment list for the class in which the position belongs
5 and who have indicated their willingness to accept appointment
6 under the conditions of employment specified.

7 (b) For purposes of ranking, scores of eligibles on employment
8 lists for the classes shall be rounded to the nearest whole percent.
9 A rank consists of one or more eligibles with the same whole
10 percentage score.

11 (c) If fewer than three ranks of persons willing to accept
12 appointment are on the list from which certification is to be made,
13 then additional eligibles shall be certified from the various lists
14 next lower in order of preference until names from three ranks are
15 certified. If there are fewer than three names on those lists, and
16 the appointing power does not choose to appoint from among these,
17 the appointing power may demand certification of three names
18 and examinations shall be conducted until at least three names
19 may be certified. The appointing power shall fill the position by
20 the appointment of one of the persons certified.

21 (d) The department may, consistent with board rules, provide
22 for certifying less than three ranks where the size of the certified
23 group is disproportionate to the number of vacancies.

24 (e) The department may, consistent with board rules, allow for
25 the names of eligibles to be transferred from lists for the same
26 class or comparable classes where names from one list were
27 certified under the rule of three ranks, and names from the other
28 list were certified under the rule of three names.

29 ~~SEC. 45.~~

30 *SEC. 43.* Section 19058 of the Government Code is amended
31 to read:

32 19058. When there is no employment list from which a position
33 may be filled, the appointing power, with the consent of the
34 department, may fill the position by temporary appointment. The
35 temporary appointment to a permanent position shall continue only
36 until eligibles are available from an appropriate employment list
37 and shall not exceed the period prescribed by Section 5 of Article
38 VII of the Constitution. Within the limits of the period prescribed
39 therein, any temporary appointment to a limited term position may,
40 in the discretion of the appointing power and with the approval of

1 the board, be continued for the life of such position. When
2 temporary appointments are made to permanent positions, an
3 appropriate employment list shall be established for each class to
4 which a temporary appointment is made before the expiration of
5 the appointment.

6 ~~SEC. 46.~~

7 *SEC. 44.* Section 19063 of the Government Code is amended
8 to read:

9 19063. (a) Any person receiving state public assistance under
10 the CalWORKs program (Article 3.2 (commencing with Section
11 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
12 Institutions Code) who meets the minimum qualifications for any
13 civil service position as a seasonal or an entry level nontesting
14 class that does not require an examination shall be given priority
15 consideration. "Priority consideration" means, for the purposes of
16 this article, that after consideration has been made for all conditions
17 described in this section, the state agency involved shall hire all
18 qualified job applicants who are receiving state public assistance
19 before hiring any other applicant. The department shall review all
20 nontesting classes and determine those that are subject to this
21 article.

22 (b) Public assistance recipients who apply for openings under
23 this article shall be required to undergo the same employment
24 process used by state agencies to select any other person for
25 appointment to a position in such a class. If a state agency does
26 not select a public assistance recipient to fill an opening, it shall
27 document in its employment records the reasons why the public
28 assistance recipient was not selected and any other information
29 determined to be necessary by the department.

30 (c) The employment of public assistance recipients shall be
31 consistent with the goals established by each agency under Section
32 19790.

33 (d) This section shall not preclude a state agency from hiring
34 any person appointed during the prior 12 months in the class for
35 which the vacancy exists.

36 ~~SEC. 47.~~

37 *SEC. 45.* Section 19063.1 of the Government Code is amended
38 to read:

39 19063.1. Each state agency that intends to establish qualified
40 hiring pools, as defined by the department, for seasonal or entry

1 level nontesting class employment shall notify the Employment
2 Development Department or its delegate in the area where the
3 openings are expected to occur at least 45 calendar days prior to
4 the establishment of the pool. The state agency shall request
5 referrals of public assistance recipients and at the same time shall
6 provide necessary job-related information.

7 ~~SEC. 48.~~

8 *SEC. 46.* Section 19063.4 of the Government Code is amended
9 to read:

10 19063.4. If no public assistance recipient applies for ~~a~~ *an*
11 opening within the time limits established by this article, the state
12 agency may fill the opening with a person not receiving public
13 assistance. In the event a person not receiving public assistance is
14 hired, the state agency shall place a certification in its employment
15 records stating the date it contacted the Employment Development
16 Department or its designate, the name of the person contacted, the
17 date the position was filled, and any other information determined
18 to be necessary by the department.

19 ~~SEC. 49.~~

20 *SEC. 47.* Section 19063.8 of the Government Code is amended
21 to read:

22 19063.8. Any seasonal or entry level nontesting classifications
23 specifically designed to support a program to train students, as
24 determined by the department, to the extent that they are authorized
25 as of the effective date of this article, shall be exempt from this
26 article. However, state agencies shall be encouraged by the
27 department to increase their efforts to recruit disadvantaged youth
28 or students for these jobs.

29 ~~SEC. 50.~~

30 *SEC. 48.* Section 19172 of the Government Code is amended
31 to read:

32 19172. During the probationary period the appointing power
33 shall evaluate the work and efficiency of a probationer in the
34 manner and at such periods as the department rules may require.

35 ~~SEC. 51.~~

36 *SEC. 49.* Section 19180 of the Government Code is amended
37 to read:

38 19180. If the board restores a rejected probationer to his or her
39 position it shall direct the payment of salary to the employee for
40 such period of time as the rejection was improperly in effect.

1 Salary shall not be authorized or paid for any portion of a period
2 of rejection that the employee was not ready, able, and willing to
3 perform the duties of his or her position, whether such rejection
4 is valid or not.

5 There shall be deducted from any amount approved under this
6 section any compensation the employee earned or might reasonably
7 have earned in private or public employment during the period the
8 rejection was improperly in effect.

9 ~~SEC. 52.~~

10 *SEC. 50.* Section 19232 of the Government Code is amended
11 to read:

12 19232. Each state agency shall be responsible for establishing
13 an effective affirmative action program to ensure individuals with
14 a disability, who are capable of remunerative employment, access
15 to positions in state service on an equal and competitive basis with
16 the general population.

17 Each state agency shall develop and implement an affirmative
18 action employment plan for individuals with a disability, which
19 shall include goals and timetables. These goals and timetables shall
20 be set annually for disabilities identified pursuant to guidelines
21 established by the Department of Human Resources, and shall be
22 submitted to the department no later than June 1 of each year
23 beginning in 1978, for review and approval or modification. Goals
24 and timetables shall be made available to the public upon request.

25 ~~SEC. 53.~~

26 *SEC. 51.* Section 19233 of the Government Code is amended
27 to read:

28 19233. The department shall be responsible for the following:

29 (a) Outline specific actions to improve the representation of
30 individuals with a disability in the state workforce and to ensure
31 equal and fair employment practices for employees who are
32 individuals with a disability.

33 (b) Survey the number of individuals with a disability in each
34 department by at least job category and salary range for the purpose
35 of developing goals and timetables pursuant to Section 19232 and
36 compare those numbers with the number of individuals with a
37 disability in the workforce.

38 (c) Establish guidelines for state agencies and departments to
39 set goals and timetables to improve the representation of

1 individuals with a disability in the state workforce. Goals and
2 timetables shall be set by at least job category.

3 ~~SEC. 54.~~

4 *SEC. 52.* Section 19236 of the Government Code is amended
5 to read:

6 19236. The Department of Human Resources shall provide
7 technical assistance, statewide advocacy, coordination, and
8 monitoring of plans to overcome any underrepresentation
9 determined pursuant to Section 19234.

10 ~~SEC. 55.~~

11 *SEC. 53.* Section 19237 of the Government Code is amended
12 to read:

13 19237. On or before November 15 of each year, the department
14 shall report to the Governor and the Legislature on the current
15 activity, future plans, and past accomplishments of the overall
16 employment program for individuals with a disability in state
17 government, including an evaluation of the achievement of annual
18 employment objectives.

19 ~~SEC. 56.~~

20 *SEC. 54.* Section 19240 of the Government Code is amended
21 to read:

22 19240. (a) The department, consistent with board rules, shall
23 be responsible for the administration of the Limited Examination
24 and Appointment Program. This program shall provide an
25 alternative to the traditional civil service examination and
26 appointment process to facilitate the hiring of persons with
27 disabilities in the state civil service.

28 (b) “Disability” for the purposes of this article has the definition
29 set forth in Section 12926, as that section presently reads or as it
30 subsequently may be amended.

31 (c) Notwithstanding subdivision (b), if the definition of
32 “disability” used in the federal Americans with Disabilities Act of
33 1990 (Public Law 101-336) would result in broader protection of
34 the civil rights of individuals with a mental or physical disability,
35 as defined in subdivision (b), then that broader protection shall be
36 deemed incorporated by reference into, and shall prevail over
37 conflicting provisions of, the definition in subdivision (b). The
38 definition of “disability” contained in subdivision (b) shall not be
39 deemed to refer to or include conditions excluded from the federal

1 definition of “disability” pursuant to Section 511 of the federal
2 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211).

3 ~~SEC. 57.~~

4 *SEC. 55.* Section 19241 of the Government Code is amended
5 to read:

6 19241. The department, consistent with board rules, shall be
7 responsible for the implementation of this chapter, which may
8 provide for the establishment of eligibility criteria for participation,
9 special job classifications, examination techniques, and
10 appointment and appeals procedures.

11 ~~SEC. 58.~~

12 *SEC. 56.* Section 19242 of the Government Code is amended
13 to read:

14 19242. The department or its designee shall conduct
15 competitive examinations to determine the qualifications and
16 readiness of persons with disabilities for state employment. The
17 examinations may include an on-the-job-performance evaluation
18 and any other selection techniques deemed appropriate.
19 Examination results may be ranked or unranked.

20 ~~SEC. 59.~~

21 *SEC. 57.* Section 19242.2 of the Government Code is amended
22 to read:

23 19242.2. The department or its designee shall refer the names
24 of persons with disabilities who meet eligibility criteria for
25 participation and the minimum qualifications of the job
26 classification and any other requirements deemed appropriate by
27 the board to appointing powers for examination appointments.
28 Notwithstanding any other provision of law, and to provide for
29 appropriate job-person placement, all candidates meeting referral
30 requirements shall be eligible for examination appointment. The
31 department may prescribe the method for referring names to
32 appointing powers.

33 ~~SEC. 60.~~

34 *SEC. 58.* Section 19242.8 of the Government Code is amended
35 to read:

36 19242.8. The department or its designee shall develop
37 evaluation standards which are appropriate tests of fitness for the
38 job classification. During the job examination period, the
39 appointing power shall prepare written evaluations of the
40 candidate’s performance. The final evaluation shall contain a

1 recommendation as to whether or not to appoint the candidate to
2 an appropriate position where civil service status may accumulate.

3 ~~SEC. 61.~~

4 *SEC. 59.* Section 19243 of the Government Code is amended
5 to read:

6 19243. Upon successful completion of the job examination
7 period, the candidate shall have qualified in the examination. With
8 the approval of the department, the appointing power may appoint
9 the candidate, without further examination, to an appropriate
10 position where civil service status may accumulate.

11 ~~SEC. 62.~~

12 *SEC. 60.* Section 19243.2 of the Government Code is amended
13 to read:

14 19243.2. With the approval of the department, the appointing
15 power may shorten or extend the duration of the job examination
16 period.

17 ~~SEC. 63.~~

18 *SEC. 61.* Section 19600 of the Government Code is amended
19 to read:

20 19600. The department may, directly or through agreement or
21 contract with one or more appointing authorities and other public
22 and private organizations, with approval of the board, conduct and
23 evaluate demonstration projects.

24 Nothing in this section shall infringe upon or conflict with the
25 merit principle as embodied in Article VII of the California
26 Constitution, nor shall any project undertaken pursuant to this act
27 conflict with, or infringe upon the merit principles of the civil
28 service system.

29 Subject to the provisions of this section, the conducting of
30 demonstration projects shall not be limited by any lack of specific
31 authority under this code to take the action contemplated, or by
32 any provision of this code or any rule or regulation prescribed
33 under this code which is inconsistent with the action, including
34 any law or regulation relating to any of the following:

35 (a) The methods of establishing qualification requirements for,
36 recruitment for, and appointment to positions.

37 (b) The methods of classifying positions and compensating
38 employees.

39 (c) The methods of assigning, reassigning, or promoting
40 employees.

1 (d) The methods of disciplining employees.

2 (e) The methods of providing incentives to employees, including
3 the provision of group or individual incentive bonuses or pay.

4 (f) The hours of work per day or per week.

5 (g) The methods of involving employees, labor organizations,
6 and employee organizations in personnel decisions.

7 (h) The methods of reducing overall agency staff and grade
8 levels.

9 ~~SEC. 64.~~

10 *SEC. 62.* Section 19600.1 of the Government Code is amended
11 to read:

12 19600.1. “Demonstration project” means a project approved
13 by the board and conducted by the department or another appointed
14 authority to determine whether a specified change in personnel
15 management policies or procedures would result in improved state
16 personnel management.

17 ~~SEC. 65.~~

18 *SEC. 63.* Section 19602 of the Government Code is amended
19 to read:

20 19602. (a) Before conducting or entering into any agreement
21 or contract to conduct a demonstration project, the appointing
22 authority proposing the project shall describe its proposal to the
23 department, and specifically address the following factors:

24 (1) The purposes of the project.

25 (2) The employees affected by the project categorized by
26 classification, occupational series, or organizational unit.

27 (3) The number of employees affected.

28 (4) The methodology.

29 (5) The duration.

30 (6) The training to be provided.

31 (7) The anticipated costs.

32 (8) The methodology and criteria for evaluating the project
33 during its term and at its conclusion.

34 (9) A specific description of any aspect of the project for which
35 there is a lack of specific authority.

36 (10) A specific citation to any provision of law, rule, or
37 regulation that, if not waived under this section, would prohibit
38 the conducting of the project, or any part of the project as proposed.

1 (11) A specific description of the potential impact of the plan
2 on the rights and status of the employees included within the plan,
3 including their right of appeal.

4 (12) Provisions for determining the status, rights, compensation,
5 and benefits of affected employees upon the termination of the
6 project.

7 (b) The department shall notify employees who are likely to be
8 affected by the project and to each house of the Legislature, at
9 least 180 days in advance of the date any project proposed under
10 this section is to take effect.

11 (c) After the department reviews the proposal, it shall transmit
12 it to the board. The board shall publish notice of the project in the
13 California Regulatory Notice Register with notice of the board
14 meeting or other public hearing at which the proposed adoption
15 of the demonstration project will be considered and acted upon.
16 The notice shall be published at least 30 days prior to the meeting
17 or hearing.

18 (d) The board shall provide an opportunity for written comment
19 to the board, and oral comment at board meetings or hearings.

20 (e) The appointing authority proposing the project shall provide
21 to persons who have submitted comments written notice of
22 substantive changes made to the project after the board meeting,
23 and provide an additional 15-day period for submission of
24 comments prior to the final adoption of the demonstration project
25 by the board.

26 (f) Any regulations implementing the demonstration project
27 shall be submitted to the Office of Administrative Law for filing
28 with the Secretary of State and publication in the California Code
29 of Regulations. These regulations shall be exempt from the
30 Administrative Procedure Act (Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3). However, no regulation
32 implementing a demonstration project shall be exempt from the
33 act if the project limits competition in particular examinations or
34 limits entry into particular classifications on the basis of sex, race,
35 religious creed, color, national origin, ancestry, marital status,
36 physical disability, mental disability, or other non-job-related
37 factors.

38 (g) Submit the proposed project to public hearings.

39 (h) Obtain approval from each agency involved in the final
40 version of the plan.

1 (i) Provide the Legislature with a report at least 90 days in
2 advance of the date the project is to take effect setting forth the
3 final version of the plan as so approved.

4 ~~SEC. 66.~~

5 *SEC. 64.* Section 19603 of the Government Code is amended
6 to read:

7 19603. Each demonstration project shall terminate before the
8 end of the five-year period beginning on the date on which the
9 project takes effect, except that the project may continue beyond
10 the date to the extent necessary to validate the results of the project.

11 Subject to the terms of any written agreement or contract between
12 the department and an appointing authority, a demonstration project
13 involving the appointing authority may be terminated by the board
14 or the appointing authority, if either determines that the project
15 creates a substantial hardship on, or is not in the best interests of,
16 the public, employees, or state government.

17 ~~SEC. 67.~~

18 *SEC. 65.* Section 19606 of the Government Code is amended
19 to read:

20 19606. The department shall provide for an evaluation of the
21 results of each demonstration project and its impact on improving
22 public management.

23 All agencies shall cooperate with and assist the department, to
24 the extent practicable, in any evaluation and provide the department
25 with requested information and reports relating to demonstration
26 projects in their respective agencies.

27 ~~SEC. 68.~~

28 *SEC. 66.* Section 19609 of the Government Code is amended
29 to read:

30 19609. (a) For a demonstration project made permanent
31 pursuant to legislation operative on or after January 1, 2008, an
32 appointing authority participating in the demonstration project
33 shall file a report on all aspects of the demonstration project with
34 the State Personnel Board. The report shall include, but not be
35 limited to, all of the following:

- 36 (1) The number of applicants.
37 (2) The number of applicants that were hired.
38 (3) The cost of the hiring process.
39 (4) The number and nature of examination appeals.
40 (5) The length of time to complete the hiring and testing process.

(b) For a three-year period from the date that the demonstration project becomes permanent, the appointing authority shall file the report described in subdivision (a) on an annual basis. After the expiration of the three-year period, the appointing authority shall file a report if a report is requested by the State Personnel Board.

(c) When the board receives a report described in this section, the board may hold a public hearing to provide for the exchange of information and an opportunity for public comment about the demonstration project that is the subject of the report.

~~SEC. 69.~~

SEC. 67. Section 19701 of the Government Code is amended to read:

19701. A person shall not be discriminated against under this part because of total or partial blindness unless normal eyesight is absolutely indispensable to do the physical acts to be performed.

It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification as determined by a validation study conducted by the Department of Human Resources, for the state to refuse to hire, employ, promote, or select for a training program leading to employment, or to discriminate in compensation or in terms or privileges of employment because of color vision anomaly or defect, commonly known as color blindness or color weakness, in the vision of any person.

SEC. 68. Section 19702 of the Government Code is repealed.

~~19702. (a) A person shall not be discriminated against under this part on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1, except as otherwise provided in Section 12940. A person shall not be retaliated against because he or she has opposed any practice made an unlawful employment practice, or made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. This subdivision is declaratory of existing law.~~

~~(b) For purposes of this article, "discrimination" includes harassment.~~

~~(c) If the board finds that a person has engaged in discrimination under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal Code, the board, with the consent of the complainant,~~

1 shall provide the local district attorney's office with a copy of the
2 board's decision and order.

3 ~~(d) (1) Except as otherwise provided in paragraph (2), if the~~
4 ~~board finds that discrimination has occurred in violation of this~~
5 ~~part, the board shall issue and cause to be served on the appointing~~
6 ~~authority an order requiring the appointing authority to cause the~~
7 ~~discrimination to cease and desist and to take any action, including,~~
8 ~~but not limited to, hiring, reinstatement, or upgrading of employees;~~
9 ~~with or without backpay, and compensatory damages, which, in~~
10 ~~the judgment of the board, will effectuate the purposes of this part.~~
11 ~~Consistent with this authority, the board may establish rules~~
12 ~~governing the award of compensatory damages. The order shall~~
13 ~~include a requirement of reporting the manner of compliance.~~

14 ~~(2) Notwithstanding paragraph (1), this paragraph applies to~~
15 ~~state employees in State Bargaining Unit 6 or 8. If the board finds~~
16 ~~that discrimination has occurred in violation of this part, the board~~
17 ~~shall issue and cause to be served on the appointing authority an~~
18 ~~order requiring the appointing authority to cause the discrimination~~
19 ~~to cease and desist and to take any action, including, but not limited~~
20 ~~to, hiring, reinstatement, or upgrading of employees, with or~~
21 ~~without backpay, adding additional seniority, and compensatory~~
22 ~~damages, which, in the judgment of the board, will effectuate the~~
23 ~~purposes of this part. Consistent with this authority, the board may~~
24 ~~establish rules governing the award of compensatory damages.~~
25 ~~The order shall include a requirement of reporting the manner of~~
26 ~~compliance.~~

27 ~~(e) Any person claiming discrimination within the state civil~~
28 ~~service may submit a written complaint that states the particulars~~
29 ~~of the alleged discrimination, the name of the appointing authority,~~
30 ~~the persons alleged to have committed the unlawful discrimination,~~
31 ~~and any other information that the board may require. The~~
32 ~~complaint shall be filed with the appointing authority or, in~~
33 ~~accordance with board rules, with the board itself.~~

34 ~~(f) (1) Complaints shall be filed within one year of the alleged~~
35 ~~unlawful discrimination or the refusal to act in accordance with~~
36 ~~this section, except that this period may be extended for not greater~~
37 ~~than 90 days following the expiration of that year, if a person~~
38 ~~allegedly aggrieved by unlawful discrimination first obtained~~
39 ~~knowledge of the facts of the alleged unlawful discrimination after~~
40 ~~the expiration of one year from the date of its occurrence.~~

1 ~~Complaints of discrimination in adverse actions or rejections on~~
2 ~~probation shall be filed in accordance with Sections 19175 and~~
3 ~~19575.~~

4 (2) ~~Notwithstanding paragraph (1), this paragraph shall apply~~
5 ~~only to state employees in State Bargaining Unit 8. Complaints~~
6 ~~shall be filed within one year of the alleged unlawful discrimination~~
7 ~~or the refusal to act in accordance with this section, except that~~
8 ~~this period may be extended for not greater than 90 days following~~
9 ~~the expiration of that year, if a person allegedly aggrieved by~~
10 ~~unlawful discrimination first obtained knowledge of the facts of~~
11 ~~the alleged unlawful discrimination after the expiration of one year~~
12 ~~from the date of its occurrence. Complaints of discrimination in~~
13 ~~disciplinary actions defined in Section 19576.5 shall be filed in~~
14 ~~accordance with that section. Complaints of discrimination in all~~
15 ~~other disciplinary actions shall be filed in accordance with Section~~
16 ~~19575. Complaints of discrimination in rejections on probation~~
17 ~~shall be filed in accordance with Section 19175.3.~~

18 (g) ~~If an employee of the appointing authority refuses, or~~
19 ~~threatens to refuse, to cooperate in the investigation of a complaint~~
20 ~~of discrimination, the appointing authority may seek assistance~~
21 ~~from the board. The board may provide for direct investigation or~~
22 ~~hearing of the complaint, the use of subpoenas, or any other action~~
23 ~~that will effectuate the purposes of this section.~~

24 (h) ~~If a person demonstrates by a preponderance of evidence~~
25 ~~that the person's opposition to any practice made an unlawful~~
26 ~~employment practice under this part, or the person's charging,~~
27 ~~testifying, assisting, or participation in any manner in an~~
28 ~~investigation, proceeding, or hearing under this part, was a~~
29 ~~contributing factor in any adverse employment action taken against~~
30 ~~him or her, the burden of proof shall be on the supervisor, manager,~~
31 ~~employee, or appointing power to demonstrate by clear and~~
32 ~~convincing evidence that the alleged adverse employment action~~
33 ~~would have occurred for legitimate, independent reasons even if~~
34 ~~the person had not engaged in activities protected under this part.~~
35 ~~If the supervisor, manager, employee, or appointing power fails~~
36 ~~to meet this burden of proof in any administrative review,~~
37 ~~challenge, or adjudication in which retaliation has been~~
38 ~~demonstrated to be a contributing factor, the person shall have a~~
39 ~~complete affirmative defense to the adverse employment action.~~

1 ~~(i) As used in this part, “adverse employment action” includes~~
2 ~~promising to confer, or conferring, any benefit, effecting, or~~
3 ~~threatening to effect, any reprisal, or taking, or directing others to~~
4 ~~take, or recommending, processing, or approving, any personnel~~
5 ~~action, including, but not limited to, appointment, promotion,~~
6 ~~transfer, assignment, performance evaluation, suspension, or other~~
7 ~~disciplinary action.~~

8 *SEC. 69. Section 19702 is added to the Government Code, to*
9 *read:*

10 *19702. (a) A person shall not be discriminated against in the*
11 *terms, conditions, and privileges of his or her employment with*
12 *the state under this section based on his or her medical condition,*
13 *mental disability, or physical disability as those terms are defined*
14 *in subdivisions (i), (j), and (l) of Section 12926. A person shall not*
15 *be retaliated against because he or she has opposed any practice*
16 *made an unlawful employment practice, or made a charge, testified,*
17 *assisted, or participated in any manner in an investigation,*
18 *proceeding, or hearing under this section.*

19 *(b) For purposes of this article, “discrimination” includes*
20 *harassment.*

21 *(c) (1) Except as otherwise provided in paragraph (2), if the*
22 *board finds that discrimination has occurred in violation of*
23 *subdivision (a) of this section, the board shall issue and cause to*
24 *be served on the appointing authority an order requiring the*
25 *appointing authority to cause the discrimination to cease and*
26 *desist and to take any action, including, but not limited to, hiring,*
27 *reinstatement, or upgrading of employees, with or without backpay,*
28 *and compensatory damages, which, in the judgment of the board,*
29 *will effectuate the purposes of this section. Consistent with this*
30 *authority, the board may establish rules governing the award of*
31 *compensatory damages. The order may include a requirement of*
32 *reporting the manner of compliance.*

33 *(2) Notwithstanding paragraph (1), this paragraph applies to*
34 *state employees in State Bargaining Unit 6 or 8. If the board finds*
35 *that discrimination has occurred in violation of subdivision (a) of*
36 *this section, the board shall issue and cause to be served on the*
37 *appointing authority an order requiring the appointing authority*
38 *to cause the discrimination to cease and desist and to take any*
39 *action, including, but not limited to, hiring, reinstatement, or*
40 *upgrading of employees, with or without backpay, adding*

1 *additional seniority, and compensatory damages, which, in the*
2 *judgment of the board, will effectuate the purposes of this section.*
3 *Consistent with this authority, the board may establish rules*
4 *governing the award of compensatory damages. The order may*
5 *include a requirement of reporting the manner of compliance.*

6 *(d) Any person claiming discrimination based upon medical*
7 *condition, mental disability, or physical disability within the state*
8 *civil service may submit a written complaint with the appointing*
9 *authority that states the particulars of the alleged discrimination.*
10 *The written complaint shall be filed with the appointing authority*
11 *within one year of the alleged discrimination or the failure to act.*
12 *Any person claiming discrimination based upon medical condition,*
13 *mental disability, or physical disability may file a complaint of*
14 *discrimination with the board subsequent to lodging a complaint*
15 *with the appointing authority. Complaints of discrimination filed*
16 *with the board shall satisfy and comply with board rules.*

17 *(e) If an employee of the appointing authority refuses, or*
18 *threatens to refuse, to cooperate in the investigation of a complaint*
19 *of discrimination under subdivision (a) of this section, the*
20 *appointing authority may seek assistance from the board. The*
21 *board may provide for direct investigation or hearing of the*
22 *complaint, the use of subpoenas, or any other action that will*
23 *effectuate the purpose of this section.*

24 *(f) If a person demonstrates by a preponderance of the evidence*
25 *that the person's opposition to any practice made an unlawful*
26 *employment practice under this section, or the person's charging,*
27 *testifying, assisting, or participation in any manner in an*
28 *investigation, proceeding, or hearing under this section, was a*
29 *contributing factor in any adverse employment action taken against*
30 *him or her, the burden of proof shall be on the supervisor,*
31 *manager, employee, or appointing power to demonstrate by clear*
32 *and convincing evidence that the alleged adverse employment*
33 *action would have occurred for legitimate, independent reasons*
34 *even if the person had not engaged in activities protected under*
35 *this section. If the supervisor, manager, employee, or appointing*
36 *power fails to meet this burden of proof in any administrative*
37 *review, challenge, or adjudication in which retaliation has been*
38 *demonstrated to be a contributing factor, the person shall have a*
39 *complete affirmative defense to the adverse employment action.*

1 (g) As used in this section, “adverse employment action”
2 includes promising to confer, or conferring, any benefit, effecting,
3 or threatening to effect, any reprisal, or taking, or directing others
4 to take, or recommending, processing, or approving, any personnel
5 action, including, but not limited to, appointment, promotion,
6 transfer, assignment, performance evaluation, suspension, or other
7 disciplinary action.

8 SEC. 70. Section 19702.5 of the Government Code is amended
9 to read:

10 19702.5. (a) The Department of Human Resources shall
11 provide to the Fair Employment and Housing Commission a copy
12 of each affirmative action plan, and all subsequent amendments
13 of such plans, adopted by each state agency, department, office,
14 or commission.

15 (b) The department shall annually, commencing January 1,
16 1975, submit to the Fair Employment and Housing Commission
17 a statistical survey of the employment of each state agency,
18 department, office, or commission. The survey shall include, but
19 not be limited to: sex, age, ethnic origin, current employment
20 classification, salary, full-time or other employment status,
21 department and administrative unit, and county of employment of
22 employees.

23 SEC. 71. Section 19705 of the Government Code is amended
24 to read:

25 19705. Notwithstanding Section 19704, the Department of
26 Human Resources may, after public hearing, adopt a system in
27 which applicants for employment in the state civil service shall be
28 asked to provide, voluntarily, ethnic data about themselves where
29 such data is determined by the department to be necessary to an
30 assessment of the ethnic and sex fairness of the selection process
31 and to the planning and monitoring of affirmative action efforts.
32 The department shall provide by rule for safeguards to insure that
33 such data shall not be used in a discriminatory manner in the
34 selection process. Ethnic data may be compiled for women and
35 minorities. Ethnic data information gathered pursuant to this section
36 on an individual applicant shall not be available to any interviewer
37 or any officer or employee empowered to make or influence the
38 civil service appointment of such individual. The department shall
39 report annually to the Governor and the Legislature on the results

1 of the selection process as determined by data gathered under this
2 section.

3 SEC. 72. Section 19790 of the Government Code is amended
4 to read:

5 19790. Each state agency is responsible for an effective equal
6 employment opportunity program. The department shall be
7 responsible for statewide advocacy, coordination, enforcement,
8 and monitoring of these programs.

9 SEC. 73. Section 19792 of the Government Code is amended
10 to read:

11 19792. The department shall do all of the following:

12 (a) Provide statewide leadership, designed to achieve equal
13 employment opportunity in the state civil service.

14 (b) Develop, implement, and maintain equal employment
15 opportunity guidelines.

16 (c) Provide technical assistance to state agencies in the
17 development and implementation of their equal employment
18 opportunity programs.

19 (d) Review and evaluate departmental equal employment
20 opportunity programs to ensure that they comply with state and
21 federal statutes and regulations.

22 (e) Establish programs to ensure equal employment opportunity
23 for all state job applicants and employees through broad, inclusive
24 recruitment efforts and other measures as allowed by law.

25 (f) Provide statewide training to departmental equal employment
26 opportunity officers who will conduct training on equal
27 employment opportunity.

28 (g) Review, examine the validity of, and update qualifications
29 standards, selection devices, including oral appraisal panels and
30 career advancement programs.

31 (h) Maintain a statistical information system designed to yield
32 the data and the analysis necessary for the evaluation of equal
33 employment opportunity within the state civil service. The
34 statistical information shall include specific data to determine the
35 underutilization of groups based on race, ethnicity, gender, and
36 disability. The statistical information shall be made available during
37 normal working hours to all interested persons. Data generated on
38 a regular basis shall include, but not be limited to, all of the
39 following:

1 (1) Current state civil service workforce composition by race,
2 ethnicity, gender, age, department, salary level, occupation, and
3 attrition rates by occupation.

4 (2) Current local and regional workforce and population data
5 for groups based on race, ethnicity, gender, and age.

6 (i) The data analysis referred to in subdivision (h) above shall
7 include, but not be limited to, all of the following:

8 (1) Data relating to the utilization of groups based on race,
9 ethnicity, and gender compared to their availability in the relevant
10 labor force.

11 (2) Turnover data by department and occupation.

12 (3) Data relating to salary administration, including average
13 salaries for groups based on race, ethnicity, gender, and disability
14 and comparisons of salaries within state service and comparable
15 state employment.

16 (4) Data on employee age, and salary level compared among
17 groups based on race, ethnicity, gender, and disability.

18 (5) Data on the number of individuals of each race, ethnicity,
19 gender, and disability who are recruited for, participate in, and
20 pass state civil service examinations. This data shall be analyzed
21 pursuant to the provisions of Sections 19704 and 19705.

22 (6) Data on the job classifications, geographic locations,
23 separations, salaries, and other conditions of employment that
24 provide additional information about the composition of the state
25 civil service workforce.

26 SEC. 74. Section 19792.5 of the Government Code is amended
27 to read:

28 19792.5. (a) In order to permit the public to track upward
29 mobility and the impact of equal opportunities on persons,
30 categorized by race, ethnicity, gender, and disability in state civil
31 service, the department shall annually track, by incremental levels
32 of ten thousand dollars (\$10,000), the salaries of persons,
33 categorized by race, ethnicity, gender, and disability, in state civil
34 service. For purposes of this subdivision, “upward mobility” means
35 the advancement of persons, categorized by race, ethnicity, gender,
36 and disability, to better paying and higher level positions.

37 (b) The department shall report salary data collected pursuant
38 to subdivision (a) to the Governor and the Legislature in its Annual
39 Census of State Employees and Equal Employment Opportunity
40 Report, as required in Section 19793, and shall include in this

1 report information regarding the progress of individuals by race,
2 ethnicity, gender, and disability in attaining high-level positions
3 in state employment. The salary data shall be reported in annual
4 increments of ten thousand dollars (\$10,000) by job category, race,
5 ethnicity, gender, and disability in a format easily understandable
6 by the public.

7 SEC. 75. Section 19794 of the Government Code is amended
8 to read:

9 19794. In cooperation with the department, the appointing
10 power of each state agency shall have the major responsibility for
11 monitoring the effectiveness of the equal employment opportunity
12 programs of the state agency. To that end, the appointing power
13 shall do all of the following:

14 (a) Issue a policy statement committing to equal employment
15 opportunity.

16 (b) Issue procedures for filing, processing, and resolving
17 discrimination complaints within the state agency, consistent with
18 state laws and rules, and for filing appeals from agency decisions
19 on these complaints.

20 (c) Issue procedures for providing equal upward mobility and
21 promotional opportunities to state employees.

22 (d) Cooperate with the department by providing access, in
23 accordance with subdivisions (o) and (p) of Section 1798.24 of
24 the Civil Code, to all files, documents, and data necessary for the
25 department to carry out its mandates under this chapter.

26 SEC. 76. Section 19795 of the Government Code is amended
27 to read:

28 19795. (a) The appointing power of each state agency and the
29 director of each state department shall appoint, at the managerial
30 level, an equal employment opportunity officer, who shall report
31 directly to, and be under the supervision of, the director of the
32 department, to develop, implement, coordinate, and monitor the
33 agency's equal employment opportunity program. In a state agency
34 with less than 500 employees, the equal employment opportunity
35 officer may be the personnel officer. The agency equal employment
36 opportunity officer shall, among other duties, analyze and report
37 on appointments of employees, bring issues of concern regarding
38 equal employment opportunity to the appointing power and
39 recommend appropriate action, submit an evaluation of the
40 effectiveness of the total equal employment opportunity program

1 to the department annually by July 1, monitor the composition of
2 oral panels in departmental examinations, and perform other duties
3 necessary for the effective implementation of the agency equal
4 employment opportunity plans.

5 (b) (1) Each state agency shall establish a separate committee
6 of employees who are individuals with a disability, or who have
7 an interest in disability issues, to advise the head of the agency on
8 issues of concern to employees with disabilities, and matters
9 relating to the formulation and implementation of the plan to
10 overcome and correct any underrepresentation determined pursuant
11 to Section 19234.

12 (2) Departments shall invite all employees to serve on the
13 committee and shall take appropriate steps to ensure the final
14 committee is comprised of members who have disabilities or who
15 have an interest in disability issues. Each department shall ensure
16 that at least two-thirds of the members of the committee are
17 individuals with disabilities or retain documentation that
18 demonstrates that the number of employees invited to participate,
19 and willing and able to serve, was insufficient to meet this
20 requirement.

21 SEC. 77. Section 19798.5 of the Government Code is amended
22 to read:

23 19798.5. State departments, agencies, and the department shall
24 continue to carry out their respective duties required by Sections
25 19230 to 19237, inclusive, with respect to establishing, monitoring,
26 and reporting on an affirmative action plan, including goals and
27 timetables, for ensuring individuals with disabilities access to state
28 employment. These activities shall be coordinated with and
29 integrated into the planning, reporting, and monitoring activities
30 required by this chapter.

31 SEC. 78. Section 19815.2 of the Government Code, as added
32 by GRP 1 of the 2011–12 Regular Session, is repealed.

33 SEC. 79. Section 19816.4 of the Government Code is amended
34 to read:

35 19816.4. The department shall have possession and control of
36 all records, papers, offices, equipment, supplies, moneys, funds,
37 appropriations, land, and other property real or personal held for
38 the benefit or use by the State Personnel Board and the department
39 in the performance of the duties, powers, purposes, responsibilities,
40 and jurisdiction that are vested in the department.

1 SEC. 80. Section 19816.6 of the Government Code is amended
2 to read:

3 19816.6. All officers and employees of the State Personnel
4 Board and the department, who, on the operative date of this part,
5 are serving in the state civil service, other than as temporary
6 employees, and engaged in the performance of a function vested
7 in the department by Section 19816 shall be transferred to the
8 department. The status, positions, and rights of these persons shall
9 not be affected by the transfer and shall be retained by them as
10 officers and employees of the department pursuant to the State
11 Civil Service Act, except as to positions exempt from civil service.

12 SEC. 81. Section 19816.22 of the Government Code is
13 repealed.